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Protection of migrants

Report of the Secretary-General

Summary

The General Assembly, in its resolution 58/190, requested the Secretary-General to submit to the Assembly at its fifty-ninth session a report on the implementation of that resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

In the resolution, the Assembly requested all Member States to effectively promote and protect the human rights of all migrants, regardless of their legal status, in conformity with the applicable international human rights instruments. The General Assembly called upon States to consider reviewing and, where necessary, revising immigration policies, with a view to eliminating all practices which victimize migrants and strongly condemned the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants.

The present report contains a summary of communications received from 12 States: Azerbaijan, Croatia, Denmark, Germany, Greece, Italy, Mexico, Morocco, Panama, Romania, Slovenia and Ukraine. The communications provide information on legal provisions put in place by States to protect migrants, as well as programmes, campaigns and policies designated to this effect.

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In this report the Secretary-General welcomes the important development represented by the establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families. The Secretary-General further welcomes the entry into force of the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of migrants. In his recommendations, the Secretary-General urges Member States to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well as the United Nations Convention against Transnational Organized Crime and its Protocols on trafficking and smuggling.

The Secretary-General also reports on the mandate of the Special Rapporteur on the human rights of migrants, her main activities and concerns. The Secretary-General encourages her to continue working for the protection of the human rights of migrants, in particular women and children, to continue her programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

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I. Introduction

1. In its resolution 58/190 of 22 December 2003, entitled "Protection of migrants", the General Assembly, encouraged by the increasing interest of the international community in the effective and full protection of the human rights of all migrants and underlining the need to make further efforts to ensure respect for the human rights and fundamental freedoms of all migrants: welcomed the renewed commitment made in the United Nations Millennium Declaration to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies (para. 1); requested all Member States effectively to promote and protect the human rights of all migrants in conformity with the applicable international human rights law (para. 2); strongly condemned manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants (para. 5), as well as all forms of racial discrimination and xenophobia with regard to access to employment, vocational training, housing, schooling, health and social services, and services intended for use by the public, and welcomed the active role played by governmental and non-governmental organizations (NGOs2) in combating racism and assisting individual victims of racist acts (para. 6); requested States firmly to prosecute violations of labour law with regard to the conditions of work of migrant workers (para. 7); called upon States to consider reviewing and, where necessary, revising immigration policies, with a view to eliminating all practices which victimize migrants (para. 8); reiterated the need for all States to protect fully the universally recognized human rights of migrants (para. 9); reaffirmed emphatically the duty of States parties to the Vienna Convention on Consular Relations of 1963 to ensure full respect for and observance of the Convention (para. 10); reaffirmed the responsibility of Governments to safeguard and protect the rights of migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation (para. 11); urged all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants (para. 12); encouraged Member States to enact domestic criminal legislation to combat the international trafficking of migrants (para. 13); encouraged States to consider participating in international and regional dialogues on migration and invited them to consider negotiating bilateral and regional agreements on migrant workers within the framework of applicable human rights law (para. 15); encouraged States to remove obstacles that might prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries (para. 16); welcomed immigration programmes, adopted by some countries, that allowed migrants to integrate fully into the host countries and facilitate family reunification (para. 17); called upon States to facilitate family reunification as it had a positive effect on the integration of migrants (para. 18); requested States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit (para. 19); encouraged States of origin to promote and protect the human rights of those families of migrant workers that remained in the countries of origin, paying special attention to children and adolescents (para. 21); encouraged States, in cooperation with NGOs, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions (para. 22).

2. Finally, the Secretary-General was requested to submit a report to the General Assembly at its fifty-ninth session on the implementation of resolution 58/190 under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms". Accordingly, the Office of the United Nations High Commissioner for Human Rights, on 24 March 2004 transmitted a note verbale to Governments, on behalf of the Secretary-General, requesting information on their implementation of that resolution.

II. Reports on the status of implementation

3. The Government of Mexico, in its communication dated 3 May 2004, reported that Mexico's domestic legislation on the protection of migrants' human rights made no distinction on grounds of gender, nationality, age or migrant status. Mexico had participated in various bilateral, regional and multilateral forums in the field of migration. At the domestic level, Mexico's National Institute for Migration (INM) was to organize a number of activities for the promotion of the human rights of migrants. INM was regularly running technical training courses for officials and administrative personnel working with INM on the protection of the human rights of migrants and their families.

4. During 2003, a number of awareness raising and promotion of the human rights of migrants events were organized: in February, a training workshop on migrants' human rights was held in Tuxtla Gutiérrez; human rights training and education seminar for INM officials was held in September in Mexico City; a seminar for Mexican employers of Guatemalan temporary migrant agricultural workers was organized in November in Tapachula; and a workshop on the human rights of migrant women and children was held in December in Veracruz.

5. INM had launched in 1997 a documentation programme for the legal and migratory security of Guatemalan agricultural workers, who come to the State of Chiapas every year to work during the harvest period. The aim of this programme, which was covering some 40,000 Guatemalan workers, was to safeguard their labour and human rights and to keep track of flows by granting them temporary/visiting agricultural worker status (*forma migratoria para visitante agricola* — FMVA). On 12 February 2002, an ad hoc group on Guatemalan seasonal migrant agricultural workers was established to address issues relating to this category of migrant so as to ensure respect for their human rights and to encourage the observance and application of both countries' labour laws and the establishment of alternative mechanisms for taking prompt action to resolve the labour problems of workers employed in production sectors in Mexico. The government of the State of Chiapas was to establish a special committee of the Tapachula, Chiapas, local conciliation and arbitration board to deal with Guatemalan workers and a joint review of a Guatemalan proposal to set up reception centres for farm workers in the border area was to be conducted.

6. INM nevertheless recognized that women as a group were particularly vulnerable to abuse and violence. As part of its programme of cooperation with the Federal Government to prevent and combat violence against women in Ciudad Juárez, Chihuahua, INM was working and liaising on a permanent basis with the Office of the Attorney-General of the Republic and with the Office of the

Chihuahua State Attorney-General in exchanging information that might help in any investigations in that regard.

7. The Government reported that an inter-agency project to assist "frontier children" was set up in 1996 for the protection of minors on the northern border and to safeguard their human rights starting from when they are taken into care until they are reunited with their families or communities of origin. A special programme for the southern border was also to be formulated, in coordination with the government of the State of Chiapas. As part of the inter-agency programme, INM was organizing nationwide distribution of a human rights primer for migrant and returnee children and adolescents, which, among other things, provided information on the agencies that minors can approach for help and guidance. Television campaigns on the protection of migrant children were also being designed.

8. As agreed at the sixth Vice-Ministerial Meeting of the Regional Conference on Migration in March 2001, Mexico and Canada carried out a joint study on migrant children in Central and North America, which highlighted the importance of establishing a system of annual reports from the member States of the Regional Conference on measures taken to protect the rights of migrant children and the study and dissemination of the Convention on the Rights of the Child. It also stressed the need to provide training for migration officials and competent authorities to ensure that the rights of migrant children are respected.

9. In January and February 2004, two child migrant reception and care units were set up in Tijuana and in Mexicali, Baja California, to give a warmer welcome, through INM, to migrant children repatriated by the United States authorities. Each unit had a psychologist and a social worker, who cared for the children while their families were located. A precise record would also be kept of migrant children repatriated across the border to those two cities. Between January 2003 and January 2004, 4,780 minors were repatriated in the State of Baja California, 90 per cent of them being resident elsewhere in the country.

10. The Government of Panama, in its communication of 10 May 2004, responded that the Republic of Panama had not ratified the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families. The Government reported that article 26 of the Convention runs counter to article 64 of the Constitution of the Republic of Panama, where it is stated that trade unions and their boards of directors shall be constituted exclusively of Panamanians.

11. The Government of Denmark, in its communication dated 13 May 2004, reported that its policies for eliminating racial discrimination against non-citizens residing in Denmark included both legislation and non-legislative policies aimed at promoting equal treatment and addressing problems of discrimination and disadvantages experienced by ethnic minorities, including all regular migrants. An Act on Equal Treatment Irrespective of Ethnic Origin, which prohibited discrimination on the grounds of race and ethnic discrimination in a number of areas outside the labour market, entered into force on 1 July 2003. Under this Act, Danish citizens and third-country nationals were protected against direct and indirect discrimination, ethnic harassment and instructions to discriminate. The Act implied that the Danish Institute for Human Rights could hear appeals concerning violation of the prohibition against discrimination.

12. As a follow-up to the Durban Declaration and Programme of Action, the Government adopted in November 2003 the Action Plan to Promote Equal Treatment and Diversity and Combat Racism, which set out a number of initiatives aimed at ensuring equal treatment of all persons irrespective of race and ethnic origin and addressing disadvantages experienced by ethnic minorities. The Action Plan included information campaigns, local events celebrating diversity, the promotion of a dialogue about democracy, citizenship and diversity and the promotion of active participation in political life. It also included specific initiatives for combating discrimination in the labour market, in housing and in cultural life. Thus, the government wished, inter alia, to break down barriers that prevent ethnic minorities from participating in the labour market and to focus on the advantages of a multicultural workplace. The Government also wished to encourage a more varied mix of residents, particularly in larger disadvantaged social housing complexes, and to support initiatives that encouraged the social interaction between Danish and ethnic minority residents.

13. On 30 September 2003 Denmark ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Legislative amendments aimed at emphasizing that trafficking in human beings constituted a serious crime and strengthening the legal protection against this crime. The amendments included the insertion of a newly construed, separate provision covering all aspects of trafficking in human beings as well as an increased maximum penalty. They also brought facilitated investigations and confiscation in trafficking cases. In December 2002, a comprehensive plan of action to combat trafficking had been tabled. The Government also reported on its cooperation initiatives against trafficking in human beings. Efforts included, cooperation at the level of the European Union (EU) as well as activities in the Task Force on Organized Crime in the Baltic Sea Region. Denmark was also engaged in the work of elaborating a new convention on actions against trafficking in human beings under the auspices of the Council of Europe.

14. The Government of Greece, in its communications dated 14 May and 17 June 2004, reported that, in an attempt to respond to increased migration flows, Greece had allowed a large number of immigrants to enter its territory. Under Law 2910/2001, as amended by Law 3013/02 and Law 3202/02, which set the rules of entry and residence of aliens, regular migrants enjoyed the same rights as nationals, without discrimination. Where no sectoral collective agreements existed defining payment above the minimum standards, foreigners were paid according to the provisions laid out for Greek citizens in the National General Labour Collective Agreement. And when a foreign worker was employed and consequently held a residence permit, the Greek legislation provided protection in terms of employment, salary and social services. Bilateral agreements for seasonal work had been concluded with Bulgaria (Law 2407/96), Albania (Law 2482/97) and Egypt (Law 1453/84), and draft agreements with other countries were being developed. In addition, the Ministry of the Interior and Public Administration and Decentralization, which is the responsible authority for migration policy, had organized meetings with communities of aliens to inform them about their rights and obligations.

15. The Government reported that acts of racism and xenophobia had been isolated incidents. The Ministry of the Interior had participated in the European Observatory

on Racism and Xenophobia and had taken an active role in the preparation of the forthcoming Third Report on Greece of the European Commission against Racism and Intolerance (ECRI). A Coordinating Inter-Ministerial Group had been established with the mandate to implement the National Action Plan for the implementation of the Durban Declaration and Programme of Action. EU Council Directive No 2000/43 implementing the principle of equal treatment of persons irrespective of racial or ethnic origin and Council Directive No. 2000/78 establishing a general framework for equal treatment in employment and occupation were being implemented in national legislation.

16. The Government of Azerbaijan, in its communication dated 19 May 2004, reported that it was continuing to implement measures for the management of migration and in this process special attention was devoted to protecting the rights of migrants. Efforts to prevent irregular migration were based on the strict observance of human rights and the rule of law. The experience of the law enforcement agencies of other States in this field was being studied and measures were being taken to identify the causes of and factors contributing to irregular migration. In this regard, information and education activities targeted at the public in general, and particularly at young people, were being implemented.

17. In its communication, the Government reported that a Migration Management Centre had been set up jointly with the International Organization for Migration (IOM) to facilitate the successful management of migration and to enhance the skills of personnel at border inspection points. Some 300 people, including 60 women, had undergone training there. A National Automated Passport System had been initiated and was now operational. Measures had been taken at border checkpoints to improve the procedures for border inspection in accordance with international standards, to reduce the time required for passport control and to upgrade the technical facilities available.

18. Numerous applications from foreign nationals for permission to stay in the country's territory had been considered since 2002 pursuant to article 5 of the Aliens and Stateless Persons (Legal Status) Act. With the aim of protecting the rights and freedoms of migrants and, in particular, of refugees entering the country, a temporary centre for refugees had been built in the southern region with the assistance of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Azerbaijan Republic's State Committee on Refugees and Internally Displaced Persons. Similar centres were also planned in the northern and western regions of Azerbaijan.

19. The Government of Ukraine, in its communication dated 19 May 2004, reported that one of Ukraine's priority tasks in the field of migration was to regulate the legal status of asylum-seekers and refugees. The Government reported that the rights of persons who had been granted refugee status had been considerably broadened through the adoption of a new Refugee Act on 21 June 2001. The new legislation included: prohibition of the expulsion or forced return of refugees to the country from which they had arrived and where their freedom was endangered; State assistance in keeping refugee families intact; establishment of a central government body for migration affairs with the authority to grant refugee status; granting of refugee status for the entire period during which the conditions that gave rise to the granting of such status persisted. On 10 January 2002, the Ukrainian Parliament adopted the Act on Accession of Ukraine to the 1951 Convention relating to the

Status of Refugees and the 1967 Protocol relating to the Status of Refugees. On the basis of the aforementioned laws, the relevant legislation concerning their implementation had been, or was being, drafted. On 18 January 2001, the Ukrainian Parliament adopted a new Citizenship Act, which made it possible to grant Ukrainian citizenship to refugees three years after they had obtained refugee status, without any other conditions.

20. In addition to the persons who had been granted refugee status under the Refugee Act, the Government of Ukraine had adopted a special decision granting temporary asylum to more than 3,000 persons from the Autonomous Republic of Abkhazia, Georgia. On 1 June 2001, Ukraine opened the first temporary holding centre for asylum-seekers in Odessa oblast, with capacity for 50 persons. In 2004, work was proceeding on the construction in Odessa oblast of a second temporary holding centre that could accommodate 200 refugees; similar centres were being built in Kiev and Kharkov oblasts.

21. As a result of the liberalization of visa regulations and border controls, growing numbers of Ukrainian citizens had begun to travel abroad, particularly to European countries, in search of work. Therefore, in view of the need to take measures to combat trafficking in persons and international organized crime, on 4 February 2004 the Ukrainian Parliament ratified the United Nations Convention against Transnational Organized Crime and the Protocols supplementing it. At the same time, the flow of foreigners — economic migrants — to Ukraine had increased. Bearing in mind the need to protect the rights of migrant workers, and with a view to ensuring State regulation of labour migration processes, on 1 March 2004 Ukraine signed the 1977 European Convention on the Legal Status of Migrant Workers. Ukraine was bringing its legislation into conformity with the provisions of that Convention. Ukraine participated in the Söderköping Process aimed at developing border and migration cooperation and cooperated with the European Union in implementing the Agreement on Partnership and Cooperation in the field of justice and internal affairs. Ukraine had also become a member of IOM.

22. On 13 September 2001, a presidential decree was promulgated to improve the effectiveness of Ukraine's migration policy and protect the rights of deported persons who had returned to Ukraine, as well as the rights of refugees; the State Committee of Ukraine on Nationality and Migration Affairs was established pursuant to this decree. The Government also reported on measures adopted to improve the effectiveness of systems managing migration and granting asylum: the State Committee of Ukraine on Nationality and Migration Affairs had been established and within the Ministry of Internal Affairs, the State Department on Immigration, Citizenship and Registration of Natural Persons was established. Ukraine was also in the process of establishing a State migration service, which would be responsible for a whole range of tasks relating to the management of migration processes and the granting of asylum. Resources, although insufficient, had been earmarked for measures to: combat irregular migration; expel migrants entering the territory of Ukraine irregularly; build and maintain refugee holding centres; and create information systems. Practical implementation of the legislation presented some flaws, which needed to be addressed by amending existing laws or drafting new ones. A bill on guidelines for Ukraine's migration policy had been drafted; amendments were being drafted to the Act on the Legal Status of Foreigners and Stateless Persons; a bill on the temporary humanitarian protection of foreigners

and stateless persons was being prepared; and a whole range of regulations was under preparation.

23. The Government noted that legislation was still in need of radical improvement, despite the fact that a number of laws on citizenship, refugees, the legal status of foreigners and stateless persons and immigration had been adopted. It was necessary to adopt legislation concerning areas that had not yet been regulated, or to improve the regulations that already existed; such areas included the establishment of the basic principles of State migration policy; assistance in repatriating Ukrainian emigrants and their descendants to Ukraine; the return of persons who were deported from Ukraine because of their ethnic origin to their historical homeland; the drafting of legal and social and economic principles for regulating external labour migration; protection of the rights of persons with refugee status; and development of international cooperation.

24. The Government of Italy, in its communication dated 21 May 2004, reported that Law 40/98 had recently been amended by Law 189/2002, which had been adopted with the aim of preventing irregular immigration. The Government reported that an ad hoc National Plan of Action was under preparation, taking into account the Durban Declaration and Programme of Action. The Plan of Action covered, for example, conditions for non-EU detainees in Italian prisons or the conditions of Roma people in Italy. The Plan of Action also included a bill on asylum and asylum-related issues and Law 189/2002 on immigration, which permits the establishment of local commissions for asylum-seekers. Italy had implemented, via Law 39/2002, EU Directive No. 2000/43 on the principle of equal treatment of persons irrespective of racial or ethnic origin and a bill on religious freedom was under discussion in the relevant commissions of the Italian Parliament. Furthermore, an inter-ministerial committee against discrimination, xenophobia and anti-Semitism at the Ministry for Home Affairs had been established and the Ministry for Equal Opportunities had opened an office in charge of monitoring the practical implementation of anti- discrimination legislation throughout the country.

25. In its reply, the Government of Italy also reported that, within the framework of the Security Operative Programme for the Development of Southern Italy (2000-2006), the Ministry of Employment had recently adopted measures intended to both facilitate the integration process of immigrants in Italian society and to fight against social discrimination. Italian language courses for immigrants in the work place were being encouraged and would continue through further pilot projects. With regard to integration policies and the participation of immigrants in Italian public life, the Government noted the nomination of immigrants' representatives whose task is to advise on and monitor practical difficulties faced by immigrants. Within the electoral processes at the municipal and regional levels, legal immigrants' right to vote was another key issue currently under review. In order to favour effective inclusion of immigrants in the national labour system, a conference would be organized in late 2004 with the participation of local administrations, immigrant entrepreneurs and private banks.

26. With the aim of improving the conditions of immigrants and with regard to the right to health, the Government of Italy intends to take measures to inform immigrants on access to local health-care services and, within this context, to establish ad hoc units for immigrants. Further measures would focus on enhancing

projects of assistance to immigrant women, reducing the rates of abortion and the incidence of HIV infection and other sexually transmitted diseases.

27. Taking into account the Convention on the Rights of the Child and particularly the principle of the best interest of the child, Italy had adopted, over the last years, several measures to favour effective integration of legal immigrants and their families. Law 285/97 had established a national fund for children and adolescents in order to finance projects for the improvement of the living conditions of children from disadvantaged backgrounds, including immigrant children. Moreover, the Ministry of Education had carried out activities and programmes to inform students and teachers and raise awareness on the general principle of non-discrimination and related issues. Schools were engaged in promoting and encouraging initiatives to embrace and protect the language and culture of origin of the pupils and to foster the inter cultural dimension of education.

28. Regarding trafficking in human beings, the Government of Italy reported that article 18 of Law 286/98 set the requirements for granting special stay permits to victims of trafficking. Such permits could be granted either for social protection or judicial collaboration reasons. The granting of a stay permit for social protection reasons did not impose any obligation on the victim to report to or collaborate with the police. The permit application could be filed not only by the public prosecutor, in cases where legal action was underway, but also by the social services of Local Entities or non-profit associations and other types of associations in charge of social protection projects. The Ministry for Equal Opportunities had set up the Interministerial Commission provided for by article 18 which, in turn, started in the autumn of 1998 a national social protection programme specially targeted at street migrant prostitutes. Moreover, Italy had adopted Law 228/2003 on "Measures against trafficking in persons", incorporating the provisions contained in the Palermo Protocol.

29. With regard to the fight against female genital mutilation (FGM), an interministerial multidisciplinary committee had been established with the task of finding adequate responses and to steadily monitor the phenomenon. The Committee had drafted the "National FGM Guidelines" for health and social care providers, schools, universities and health care centres, outlining ways of addressing FGM and gaining a deeper knowledge of how best to act. The Ministry of Equal Opportunities was carrying out an in-depth analysis on this subject. The Government had supported a bill defining FGM as a criminal offence and increasing the punishment from 6 to 12 years' imprisonment for committing the act against an Italian citizen or resident, even if it is done abroad.

30. The Government of Romania, in its communication dated 25 May 2004, reported that Emergency Ordinance No. 194/2002 set the rules for the entry, stay and departure of aliens, the rights and obligations thereof, as well as specific measures to control immigration. According to the Ordinance, aliens legally staying in Romania enjoy general protection of their person and property as guaranteed under the Constitution and national laws, as well as protection of the rights set out in the international treaties to which Romania is a party. The Ordinance also contained detailed regulations concerning family reunification, integration into society, as well as conditions of, and limitations on, the detention of persons in the process of being deported or returned. In 2002, a special protocol had been signed with France for the protection and return of Romanian children. The National

Strategy on Migration, approved by the Government of Romania on 11 March 2004, included measures to prevent the violation of the human rights of migrants while in transit and on the promotion and protection of the human rights of the families of migrant workers.

31. The Government also reported that Romania had enacted domestic criminal legislation to combat and sanction trafficking in human beings (Law 565/2001), and Law 565/2002 had been passed formalizing Romania's ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of migrants. The Government reported that Romania had also ratified a number of international instruments in the field of international legal assistance: the Convention on Extradition and its Additional Protocol, the Convention on Mutual Assistance in Criminal Matters and its Additional Protocol, the European Convention on the Transfer of Sentenced Persons, the European Convention Regarding the Transfer of Proceedings in Criminal Matters and the European Convention on the International Validity of Criminal Judgments. Romania, as a member of IOM, had participated at the International Dialogue on Migration Policy.

32. The Government of Croatia, in its communication dated 1 June 2004, reported that on 1 January 2004 an Aliens Act entered into force regulating the entry, movement, stay and work of foreign citizens in Croatia. On the basis of this Act, the Ministry of the Interior issued the Rules on the Status of Foreign Citizens in the Republic of Croatia, and the Rules on Travel Documents for Foreign Citizens, Visas, Border Passes, and the Treatment of Foreign Citizens. In 2004, the Government approved the Report on the Implementation of the National Plan for Suppressing Trafficking in Persons for 2002-2003 and required the National Committee to develop an operational plan of activities for the suppression of trafficking in persons for the period 2004-2008. The goal of the National Plan was to create an appropriate legal basis for detecting, prosecuting and sanctioning the crime of trafficking in persons; to provide support and protection for the victims of trafficking in persons; to identify the causes of this phenomenon and educate the public; and to establish systematic and intensive international cooperation.

33. Furthermore, Croatia has ratified the United Nations Convention against Transnational Organized Crime and its protocols: on trafficking in persons and smuggling of Migrants member of the Southeast European Cooperative Initiative (SECI) and has signed the Agreement on Cooperation to Prevent and Combat Transborder Crime, including smuggling and trafficking on human beings. Also, the Government indicated that Croatia had contributed to the activities of the working group for the suppression of trafficking in persons within the Stability Pact.

34. The Government of Croatia had established a Human Rights Commission acting as an inter-agency governmental body in charge of human rights issues. Within the Commission, a separate expert working group on the elimination of all forms of discrimination had been set up. The working group was composed of experts from the government administration, academia, and civil society organizations. One of the tasks of the working group was to prepare the national plan for suppressing all forms of discrimination in accordance with the Durban declaration and Programme of Action.

35. Croatia also reported that a protocol on the care and protection of children staying in Croatia and who are separated from their parents was being prepared.

36. The Government of the Republic of Slovenia, in its communication dated 5 June 2004, reported that the conditions for entry, residence and departure of aliens in the Republic of Slovenia were set out in the Aliens Act, as a result of the harmonization and alignment with the EU *acquis* in the area of migration. In 2002 a resolution on the migration and asylum policy of the Republic of Slovenia was adopted on the basis of article 5 of the Aliens Act. According to the Act, with the exception of aliens who are in possession of a temporary residence permit for the purposes of seasonal work, aliens who are in possession of a permit for permanent residence or of a permit for temporary residence in the Republic of Slovenia shall, under the conditions and in accordance with the Act, have the right to reunion, preservation and re-acquisition of family integrity with their immediate family members (spouses, unmarried children, parents of minors). Conditions for the issuing of a permit for temporary residence to aliens' immediate family members were the same as the conditions for issuing a permit for temporary residence to immediate family members of a Slovene citizen.

37. The Decree on the rights and duties of refugees in the Republic of Slovenia stipulated the following rights: the right to financial assistance; the right to accommodation; the right to social and health care; the right to schooling and education; the right to employment and work; the right to assistance with integration into society. The Decree also introduced an integration plan which is draw up in the form of an agreement between a refugee and the Ministry of the Interior, in accordance with the refugee's needs, knowledge and abilities. The agreement comprises several integration measures, among them the learning of the Slovene language, acquaintance with the culture, history and constitutional system of the Republic of Slovenia, as well as education and training for improving employment opportunities.

38. With the Temporary Asylum Act, the Republic of Slovenia had enabled the integration of temporary-asylum beneficiaries in a way such that all of them had the right to permanent residence permits and the right to accommodation in collective centres. All these persons had also been guaranteed the possibility of learning the Slovene language and to pass a single examination at the level required for the acquisition of citizenship.

39. The Government of Morocco, in its communications of 25 June and 4 August 2004, stated that Morocco paid particular attention to the human rights of migrants and had taken numerous steps in that regard. The Government reported on the entry into force of Act No. 02-03 relating to the entry and residence of foreigners in Morocco, and to illegal immigration, adopted in 2003. The law regulated the conditions for the entry of foreigners and obtaining residence documents in Morocco and criminalized activities connected with clandestine immigration by imposing more rigorous penalties for this type of activity.

40. Specialized bodies had been established to deal with migration matters and border surveillance. The Immigration and Border Surveillance Department was in charge of implementing the national strategy to combat the clandestine immigration networks, while the National Immigration Observatory had the task of putting in place a national strategy for collecting data on immigration and submitting proposals aimed at strengthening means of combating clandestine immigration.

41. In the context of follow-up to the Durban Declaration and Programme of Action, the Moroccan Ministry of Human Rights had reinforced its activities by

establishing a "Migrants' Rights Centre", in cooperation with the IOM. The overall objective of the Centre was to promote respect for the individual and protection of his/her dignity, notably through: increasing respect for migrants' rights irrespective of gender, ethnic or social origin or any other grounds; strengthening the institutional capacity of the Government with regard to the protection of the human rights of migrants; legal assistance to migrants; raising awareness of the various issues relating to migration among migrants and the general public; promotion and research, and studies to identify problems and obstacles impeding the more effective integration of migrants and the realization of their rights; and developing partnerships and cooperation with the institutions working in the field of migration at the national, regional and international levels.

42. The Government of Germany, in its communication dated 30 June 2004, reported that in order to further improve the protection of human rights and to ensure that migrants in particular were protected from discrimination, an Anti-Discrimination Act in the area of labour and employment was being drafted. Furthermore, the Government was working towards developing a national plan of action.

43. In 2004 the Federal Republic of Germany had presented the following periodic reports dealing with specific issues regarding the human rights protection of migrants to the relevant human rights treaty monitoring bodies: second periodic report to the Convention on the Rights of the Child; fifth periodic report to the Committee on the Elimination of Discrimination against Women; fifth periodic report to the Human Rights Committee; third periodic report to the Committee against Torture.

44. Owing to the difficult economic and employment situation and the resulting difficulties for the integration of migrants into society, targeted action needed to be taken. Teenagers and adults with a migrant background needed to be provided with better opportunities for learning the German language and becoming integrated into the labour market. This became all the more urgent as the restructuring of the economy was leading towards a focus on the services sector and the increased need for personnel with professional qualifications.

45. The Government also reported that promoting the integration of individuals with a migrant background was considered to be an issue that spanned several policy areas. The Federal Government's integration policy focused on providing German language instruction and promoting integration into the labour market. Germany was in a transitional phase with regard to the legislative implementation of integration policy. An Immigration Act was before the German Parliament which, for the first time, created a comprehensive legal framework for promoting the integration of migrants. In future, there would be a uniform concept for the integration of foreigners and repatriates. In addition, the Act would establish State-sponsored integration programmes regulated by law. The Immigration Act provided that, in the future, all foreigners who permanently and legally resided in the Federal Republic of Germany would be able to participate in integration courses. These courses would comprise basic and intermediate language courses designed to allow foreigners to acquire sufficient command of the German language. They would also consist of orientation courses on the German legal system, culture and history. New entrants would be entitled to take part in the courses. Anyone not having any knowledge of German would be required in principle to take part in them, and

punitive measures would be imposed for not attending classes (e.g. this would be taken into consideration when decisions were reached regarding the extension of residence permits). Sufficient knowledge of the German language and basic knowledge of the German legal system and German society were also prerequisites for the issuing of a permanent right of residence (settlement permit). By successfully completing the courses, an individual could also shorten from eight to seven years the time he or she would have to wait before being eligible for naturalization as a German citizen.

46. Efforts were being made to reduce or prevent unemployment among individuals with a migrant background. The Federal Ministry of Economy and Labour promoted migrant-specific programmes that were aimed at better enabling individuals with a migrant background to take advantage of general labour market instruments. With the entering into force of the Job-Aqtiv Act, the appraisal of each individual's chances in the labour market, so-called job profiling, had been introduced into the job placement process to make it more efficient. Job profiling could determine an individual's concrete need for the assistance he or she would require to become integrated into the labour market. Through this process, a job placement strategy was determined and recorded in a so-called integration agreement. This individual assistance procedure was of particular benefit to migrants, since their language and intercultural skills were taken into consideration as part of their reintegration into the labour market. Within the framework of the Fight against Youth Unemployment, programmes were being further developed. The aim of the programmes was to prepare young unemployed people for the labour market through vocational training and targeted language courses. Since the third quarter of 2003, under the Fight against Young Unemployment initiative, job-oriented language courses for young persons with a migrant background had been promoted. In 2003, the Federal Employment Agency had declared the integration into employment of foreigners living in Germany as one of the objectives of its social policy. The assistance offered aimed to activate, integrate and qualify teenagers and adults with a migrant background.

47. Germany had presented a proposal to the European Commission on the expansion of the programme that supports the creation of new small enterprises (ESF-BA Programme). It would expand this programme to include a fourth pillar for the promotion of job-related measures to improve the language competence of recipients with a migrant background.. Since this programme was co-funded within the ESF-BA framework, only foreigners residing in Germany were eligible to participate. The European Commission's approval of the planned extension of the ESF-BA Programme was expected at the end of June 2004.

48. The new Immigration Act created legal instruments in the area of migrant labour for the establishment of a right of residence for the purpose of employment. Work permits would be issued together with the resident permit, in so far as the labour administration authority had given its approval. The concerned individual would thereby no longer have to submit several applications and would only need to deal with one authority.

III. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

49. The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families entered into force on 1 July 2003. As of 20 August 2004, 26 States had ratified the Convention: Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Kyrgyzstan, Libyan Arab Jamahiriya, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Timor-Leste, Uganda and Uruguay. The entry into force of the Convention will assist in securing a protective mechanism for the human rights of migrants, including those in an irregular situation. All Member States that have not yet become a party to the Convention are urged to consider acceding to this instrument promptly. In December 2003, the States parties met to elect the 10 members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which will monitor the compliance of States parties with the provisions of the Convention. The first session of the Committee was held in Geneva from 1 to 5 March 2004 and focused mostly on organizational matters.

IV. Activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants

50. In its resolution 58/190, the General Assembly took note of the interim report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants , and requested her to continue taking into account the recommendations contained in the Durban Declaration and Programme of Action in the performance of her mandate, tasks and duties. The Special Rapporteur was further requested to submit to the Assembly at its fifty-ninth session an interim report on the fulfilment of her mandate.

51. During the period under review, the Special Rapporteur has carried out official visits to Spain, Morocco, the Islamic Republic of Iran and Italy. The Special Rapporteur expects to visit Peru in September 2004 and mutually convenient dates are being sought for a visit to Burkina Faso and Côte d'Ivoire. During the sixtieth session of the Commission on Human Rights, the Special Rapporteur presented reports on her visits to Spain (E/CN.4/2004/76/Add.3) and Morocco (E/CN.4/2004/76/Add.2) and a preliminary note on her visit to the Islamic Republic of Iran (E/CN.4/2004/76/Add.4). The Special Rapporteur's main report to the Commission focused on the issue of domestic migrant workers. She presented as well an addendum to the main report summarizing communications to and from Governments (E/CN.4/2004/76/Add.1). The report of the Special Rapporteur to the sixty-first session of the Commission will contain a review of progress made in the protection of the human rights of migrants since the creation of the mandate in 1999, highlighting current and future challenges.

52. In the performance of her mandate, the Special Rapporteur has paid particular attention to the situation of female migrants and children, especially unaccompanied children. The Special Rapporteur also continued to maintain a dialogue with Governments on the situation of migrants.

V. Conclusions and recommendations

53. The Secretary-General welcomes the efforts made by several Member States to report on the measures they have adopted to protect migrants and encourages those that have not done so to provide him with such information.

54. The Secretary-General takes note of the measures adopted by several countries to ensure that migrants are treated equally before the law in a humane and respectful manner. The Secretary-General is particularly encouraged by the increasing number of bilateral, regional and international consultations on migration, including on the question of the protection of migrants.

55. The Secretary-General is also encouraged by the efforts of those States that have provided extensive reports detailing how their legislation is being enforced and the measures that are being undertaken to strengthen the protection of migrants. It is recommended that in future responses States include information on good practices, as well as obstacles, with respect to the protection of migrants.

56. The Secretary-General expresses his support for the work of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants and encourages her to continue working for the protection of the human rights of migrants, in particular women and children, and to continue her programme of visits. The Secretary-General also encourages her to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants/Groupe de Genève sur la question migratoire/Commission mondiale sur les migrations internationals/Grupo de Ginebra sobre Migración/Comisión Mundial sobre las migraciones internacionals.

57. The Secretary-General welcomes the establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which will monitor the compliance of States parties with the provisions of the 1990 Convention, and urges Member States that have not done so to adhere to this instrument. The Secretary-General encourages States to make the declarations under articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider inter-State or individual complaints.

58. The Secretary-General welcomes the entry into force of the United Nations Convention against Transnational Organized Crime entered and the Protocols thereto on trafficking in persons and smuggling of migrants, and requests Member States that have not done so to consider ratifying these instruments. The Secretary-General encourages Member States to take into consideration the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) submitted by the High Commissioner for Human Rights to the Economic and Social Council in 2002.

59. The Secretary-General welcomes the establishment of the Geneva Migration Group and the Global Commission on International Migration. The Secretary-General is encouraged by the increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of

migration and urges them to continue along this path. The Secretary-General encourages increased dialogue and cooperation between States.

60. **The Secretary-General encourages States to implement their national plans of action, in particular those aspects relating to migrants, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.**